

United States Senate
WASHINGTON, DC 20510

July 19, 2022

VIA ELECTRONIC TRANSMISSION

The Honorable Merrick Garland
Attorney General
Department of Justice

Dear Attorney General Garland:

Today, I write to you with respect to the Office of International Affairs (OIA) within the Justice Department's Criminal Division and its responsibility to execute legal requests from foreign governments pursuant to Mutual Legal Assistance Treaties (MLATs) with the United States. As you are aware, in 2005, the United States and India entered into an MLAT. As you are also aware, in conjunction with legal matters subject to MLATs, Red Notices can be used to arrest a person for extradition relating to that very same legal matter. If the underlying legal matter in a foreign country is subject to abuse, the resulting request for a Red Notice would also be an abuse of process.

Indeed, last year, the Justice Department's Inspector General issued an audit report identifying problems with the execution of MLAT requests.¹ Among other issues, it identified the failure of foreign governments to ensure that their requests met the minimum standards of evidence required under U.S. law.² In addition, a recent news report has indicated that fourteen countries have misused the Red Notice system from 2014-2021 and that India has committed significant misuse.³

It is crucial that the Justice Department protect Americans from foreign governments seeking to abuse the MLAT and Red Notice process to undermine the rule of law and retaliate against adverse litigants in international disputes.

¹ Office of the Inspector Gen., *Audit of the Criminal Division's Process for Incoming Mutual Legal Assistance Requests*, 21-097 U.S. Dep't of Just., 24 (July 2021) <https://oig.justice.gov/sites/default/files/reports/21-097.pdf>. ("According to OIA, many of the incoming MLA requests that require court orders, such as requests for searches of stored communications, initially do not meet the stringent legal requirements for the U.S. to provide the requested evidence. OIA's Cyber and Incoming MLA teams cannot obtain records on behalf of a foreign partner if the information in support of the request does not meet the applicable U.S. evidentiary standard. In our interviews with OIA officials, they told us that a significant amount of time in the process includes providing guidance to foreign authorities on the stringent U.S. legal standards.")

² *Id.*

³ Micaela Burrow, *'Thuggish Behavior': Countries Are Using An International Policing Body To Target Americans. Here's The Latest Example*, Daily Caller (June 26, 2022) <https://dailycaller.com/2022/06/26/india-interpol-authoritarian-red-notice-americans/>. The article suggests that India has improperly requested that Interpol issue a Red Notice against Ramachandran Viswanathan, a U.S. citizen.

Accordingly, with respect to the Justice Department's responsibilities to ensure that MLATs and Red Notices are not abused by foreign countries, please answer the following no later than August 2, 2022:

1. How does the Justice Department ensure that it protects the due process rights of U.S. citizens targeted under MLAT and Red Notice requests from foreign governments?
2. What systems are in place, if any, for the Justice Department to track and report instances of abuse of the MLAT and Red Notice process by foreign governments?
3. What is the process for reviewing MLAT agreements after a period of time to ensure an agreement is still in the interests of the United States if a foreign government has abused the process?

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Charles E. Grassley
Ranking Member
Committee on the Judiciary